

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,256

)

Appeal of)

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for General Assistance (GA). The issue is whether the petitioner and his wife are "able-bodied" within the meaning of the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner applied for GA on October 29, 1997, after he was given a "medical leave of absence" from his job due to problems he was having with his knee. The petitioner is married but has no children. His wife is unemployed.

The Department initially denied the petitioner's application because he was unable to document that within the last 30 days his income was below the GA maximum and because he did not provide medical documentation of his and his wife's inability to work. A hearing was held on November 12, 1997. At that time, based on documentation provided by the petitioner, the Department conceded that because of the lapse of time since he last worked, the petitioner's income in the last 30 days was below the program maximum. However, based on medical reports filled out by the petitioner's and his wife's doctors, the Department determined that neither the petitioner nor his wife had shown that they were not "able-bodied".

The medical reports submitted by the petitioner and his wife show that they both have impairments that presently prevent them from doing work that requires substantial standing and lifting. However, the reports indicate that both of them are capable of performing sedentary work.

The petitioner does not dispute that he and his wife can do sedentary work, but, for himself, he maintains that he should not have to take another job, presumably low-paying, if he will be called back to his old job when his knee heals.

ORDER

The Department's decision is affirmed.

REASONS

Individuals who have no minor dependents are eligible for GA only if they can show that they have exhausted all available income and resources and are not "able-bodied". W.A.M. § 2600. Section 2601 of the regulations defines "able-bodied" as follows:

No physical or mental impairment exists which prevents the person from working. A person shall not be considered able-bodied if currently unable to work in any type of employment due to physical or emotional problems that have lasted or presumably will last at least 30 days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner . . .

In this case, the medical evidence submitted by the petitioner shows that he and his wife are capable of performing sedentary work. Thus, it cannot be concluded that either of them is "unable to work in any type of employment". Inasmuch as the Department's decision is in accord with the above regulation, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#